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completion of the order of publication, appear within four months, the applicant may purchase in the manner prescribed. In the form of notice prescribed in Acts 1899-1900, c. 794 (Code 1904, p. 326), the landowner is notified to appear in four months from the date of the notice. Held, that the four months' notice required to be given commences to run from the completion of order of publication, and not from its date.

[Ed. Note.—For other cases, see Taxation, Cent. Dig. § 1497; Dec. Dig. § 750.\* 13 Va.-W. Va. Enc. Dig. 164; 10 Va.-W. Va. Enc. Dig. 484.]

**2. Taxation (§ 746\*)—Surveys—Application to Purchase.**—Code 1887, § 666 (Code 1904, p. 326), provides that the court unless it have some objection to the report of a surveyor on a survey of land made at the instance of an applicant to purchase, shall order the same to be recorded. Held, that the object of the report of survey and recordation thereof is to furnish record evidence of the identity of the land, and the fact that the county court, in approving a report, ordered the clerk to convey to the purchaser, did not authorize the clerk to make a deed to the applicant, except on petition of the applicant and the clerk's refusal to make the deed.

[Ed. Note.—For other cases, see Taxation, Dec. Dig. § 746.\* 13 Va.-W. Va. Enc. Dig. 136.]

Appeal from Circuit Court, Franklin County.

Suit by David Patterson and others against Howard Bradley, as trustee, and another. From a decree in favor of plaintiffs, defendants appeal. Affirmed.

*Hairston, Hairston & Willis, L. W. Anderson, and Samuel A. Anderson*, for appellants.

*Dillard & Lee and S. Hamilton Graves*, for appellees.

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#### LYNCHBURG COTTON MILLS v. RIVES.

March 9, 1911.

[70 S. E. 542.]

**1. Evidence (§ 258\*)—Admission.**—In ejectment it was proper to admit in evidence a letter from defendant's attorney to plaintiff's attorney, which showed on its face that the writer was defendant's attorney, and which showed that defendant claimed title through plaintiff.

[Ed. Note.—For other cases, see Evidence, Cent. Dig. §§ 1106, 1107; Dec. Dig. § 258.\* 4 Va.-W. Va. Enc. Dig. 763; Id. 909.]

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

**2. Trial (§ 86\*)—Evidence—Objections.**—A general objection to evidence will be overruled, where it is admissible for any purpose.

[Ed. Note.—For other cases, see Trial, Dec. Dig. § 86.\* 5 Va.-W. Va. Enc. Dig. 370.]

**3. Ejectment (§ 89\*)—Evidence.**—In ejectment the record of another action of ejectment between other parties not in privity with the parties to the present suit is not competent evidence upon a question of boundaries, or the location of the land in controversy, except where the record is to show adverse possession under color of title, and where the record in a chancery case is offered as a link in the chain of title.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. § 252; Dec. Dig. § 89.\* 4 Va.-W. Va. Enc. Dig. 906.]

**4. Ejectment (§ 89\*)—Evidence.**—Plaintiff conveyed land to a trustee to secure creditors, and therefore the trustee conveyed the land, and plaintiff sued the purchaser in ejectment claiming that the trustee had conveyed land not included in the deed to him. In such deed the metes and bounds were set forth with precision and called for C. avenue as the western boundary, and, after plaintiff had introduced a map showing the location of C. avenue, defendant offered the record of the proceeding in which C. avenue was established. Held properly excluded as immaterial.

[Ed. Note.—For other cases, see Ejectment, Dec. Dig. § 89.\* 4 Va.-W. Va. Enc. Dig. 906.]

**5. Ejectment (§ 151)—Evidence.**—It was proper not to permit the trustee to give his understanding as to what land was included in the deed to him.†

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. § 440; Dec. Dig. § 151.\* 4 Va.-W. Va. Enc. Dig. 905.]

**6. Appeal and Error (§ 692\*)—Review.**—The appellate court cannot consider an objection to a question to a witness, where it does not appear what the answer would have been.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 2905-2009; Dec. Dig. § 692.\* 5 Va.-W. Va. Enc. Dig. 377.]

**7. Husband and Wife (§ 210\*)—Ejectment by Wife.**—Where a wife brought ejectment under Code 1904, § 2268a, empowering a married woman to sue in her own name in cases where by the prior law a next friend would have been necessary, a contention that she could not maintain the action, as she acquired the land prior to the married woman's act, and that her husband's vested right could not be disturbed by legislation in relation to curtesy, was of no merit,

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series. & Rep'r Indexes.

†This point was not decided.

where it appeared that plaintiff had always had complete possession and the profits.

[Ed. Note.—For other cases, see Husband and Wife, Cent. Dig. §§ 774-782; Dec. Dig. § 210.\* 7 Va.-W. Va. Enc. Dig. 231.]

**8. Husband and Wife (§ 210\*)—Ejectment by Wife.**—Code, § 2742, declares that “the payment of the whole sum \* \* \* which any deed of trust may have been made to secure \* \* \* shall prevent the grantee, or his heirs, from recovering at law by virtue of such \* \* \* deed of trust, property thereby conveyed, wherever the defendant would in equity be entitled to a decree revesting the legal title in him, without condition.” Held, that where a husband and wife conveyed the wife's land to a trustee to secure a debt, and on discharge of the debt the trustee and creditor conveyed to the husband, it did not vest title in him so as to preclude the wife from maintaining ejectment.

[Ed. Note.—For other cases, see Husband and Wife, Dec. Dig. § 210.\* 7 Va.-W. Va. Enc. Dig. 231.]

**9. Ejectment (§ 19\*)—Possession of Defendant.**—Where, at the institution of ejectment, the land was not in the actual possession of any one, but defendant had had the land surveyed and paid taxes on it, the action could be maintained under Code, § 2726, providing that, if there be no person actually occupying the premises adversely to the plaintiff, the action must be against some person exercising ownership thereon or claiming title thereto, or some interest therein, at the commencement of suit.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. §§ 65-73; Dec. Dig. § 19.\* 4 Va.-W. Va. Enc. Dig. 891.]

Error to Circuit Court, Campbell County.

Action by E. G. Rives against the Lynchburg Cotton Mills. Judgment for plaintiff, and defendant brings error. Affirmed. (Keith, P., absent.)

*Harrison & Long and Geo. E. Caskie*, for plaintiff in error.  
*Samuel A. Anderson*, for defendant in error.

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COLEMAN *v.* VIRGINIA STAVE & HEADING CO. et al.

March 9, 1911.

[70 S. E. 545.]

**1. Dower (§ 101\*)—Sale of Land for Assignment—Grounds.**—Until a widow has dower assigned to her, she does not hold any part of her husband's estate as tenant in dower, and hence cannot have

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.